

request. If the subscriber fails to specify an effective date for disconnection the effective date shall be deemed to be the day following the date the disconnect request is received by Company, except that if the subscriber is receiving pay services (pay channels or pay per view) the effective date shall be when the subscriber stops receiving such services.

4.17 Late Payment. Late payment charges imposed by Company upon subscribers shall be fair and shall be reasonably related to Company's cost of administering delinquent accounts.

4.18 Privacy and Monitoring. Neither Company and its agents nor City and its agents shall tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tape or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, without the written authorization of the affected subscriber. Such authorization shall be revocable at any time by the subscriber without penalty by delivering a written notice of revocation to Company; provided, however, that Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps or billing.

4.19 Subscriber Information. Company shall not record or retain any information as to the programming actually watched by a subscriber. Company shall destroy all subscriber information of a personally-identifiable nature after a reasonable period of time except as authorized not to do so by the affected subscriber. Company shall not sell or otherwise provide to other persons, without the specific written authorization of the subscriber involved, or otherwise make available to any person or entity, lists of the names and addresses of subscribers.

4.20 FCC Technical Standards. The Company shall meet or exceed the F.C.C.'s technical standards that may be adopted from time to time.

4.20.1 Upon request Company shall provide City with a report of such testing. Such report shall state, in pertinent part, that the person doing the testing has the rules and regulations of the FCC; the FCC order(s) adopting such rules and regulations and all industry standards and other materials referenced therein; and that such testing when done fairly, in full compliance with the FCC rules and regulations shows full compliance with such rules and regulations; or in the alternative setting forth with specificity and in detail all areas of non-compliance, their actual or likely scope and causes and their professional recommendation of the best corrective measures to immediately and permanently correct the non-compliance.

4.20.2 Company shall establish the following procedure for resolving complaints from subscribers about the quality of the television signal delivered to them: All complaints shall go initially to a customer service representative and then

to the manager of Company's local office. If not resolved at that level, they shall be referred to the City and then to the FCC.

4.20.3 City at its expense and with notice to Company may test the Cable Television System in cooperation with the Company for compliance with the FCC technical standards once per year and more often if there are a significant number of subscriber complaints. Company will reimburse City for the expense of any test (not to exceed \$5,000 per calendar year for tests) which shows a non-compliance with such standards.

4.21 Backup Power. Company shall maintain backup or standby electric power (such as from batteries or from electric generators) at all locations on Company's Cable Television System where the loss of electric power might disrupt the provision of service within City such that the System and each portion of it will operate for at least four hours even if electric service from conventional utility lines is interrupted.

4.22 Undergrounding. If a subscriber requests underground cable service, Company may charge any subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where undergrounding is required by City ordinance or policy.

4.23 Bond.

4.23.1 Company shall provide City no later than thirty (30) days after the acceptance of this Franchise, a performance bond from a Security Company meeting the standards of Section 6.9 in the amount of TWENTY THOUSAND (\$20,000) DOLLARS, in form reasonably acceptable to City as security for the faithful performance by Company of the provisions of this Franchise, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under this Franchise, and the payment of Company of any claims, liens or taxes due the City which arise by reason of the construction, operation, maintenance or repair of the Cable Television System or provision of Cable Services.

4.23.2 The condition of such bond should be that if Company fails to make timely payment to the City or its designee of any amount under this Franchise or fails to make timely payment to the City of any penalty due under this Franchise; or fails to make timely payment to the City of any taxes due; or fails to repay to the City within ten (10) days of written notification that such repayment is due, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of Grantee in connection with this Franchise; or fails, after thirty (30) days notice of such failure from the City, to comply with any provisions of this Franchise which the City reasonably determines can be remedied by an expenditure

of the money (including, without limitation, the assessment of liquidated damages), then City may demand and receive payment under such bond.

4.23.3 In lieu of providing a bond, Company may provide a guarantee of TCI, its publicly-traded parent substantially in the form set forth in Exhibit C.

4.23.4 The rights reserved by the City with respect to this section, are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such articles shall affect any other rights the City may have.

5 ACCESS TO THE SYSTEM

5.1 Optional PEG Channels. Within 365 days after receiving a written request from the City, the Company shall provide on the Cable Television System in the basic tier of service (and in the lowest tier of service if different) two non-commercial channels collectively known as "PEG Channels" as follows:

5.1.1 A combined public access and government channel administered by City and on which the public access portion shall be available for use by members of the public and a governmental portion on which the programming shall be provided by City, City's designee or such other units of state or local government as City may from time to time appoint, and

5.1.2 An educational channel, administered by the Niles School District or its designee, and on which the programming shall be provided by the Niles School District, its designees or other educational institutions upon each such entity entering into a contract with City and Company regarding the provision of same.

5.2 Company Use. If the City requests the Company to provide two PEG Channels pursuant to Section 5.1, the City may from time to time adopt and revise rules and procedures as to when and how Company may use the PEG channels for the provision of video programming when the PEG Channels are not being used for their respective purposes. Company will use the PEG Channels solely in accordance with such rules and procedures and otherwise shall have no responsibility or control with respect to the operation of such channels except as provided by law.

5.3 PEG Access Assistance. At the sole option of the City during the term of this Franchise, Company will provide an equipment grant for the PEG Channels in the amount of \$15,000 to City within 30 days after receiving notice of the City's exercise of this option. Company may treat such a grant as an "external cost" to the extent permitted by Federal law.

5.4 Lines and Facilities. If the City exercises its option under Section 5.1, the Company shall provide and maintain at its expense all lines and facilities necessary for the distribution of programming originating from the Niles School District building designated by the School District on the PEG Channels of the Cable Television System. Additional signal origination points will be provided and maintained by Company upon request, with Company to be reimbursed at cost for same.

6 INDEMNITY AND INSURANCE

6.1 Disclaimer of Liability. City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of Company's Cable Television System or Company's provision of Cable Service.

6.2 Indemnification. Company shall at its sole cost and expense indemnify and hold harmless City and all associated, affiliated, allied and subsidiary entities of City, now existing or hereinafter created, and their respective officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "Indemnitees"), from and against:

6.2.1 Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys) which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Company, its personnel, employees, agents, or contractors resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, tradename, copyright, patent service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the Cable Television System (including those arising from any matter contained in or resulting from the transmission of programming over the System and including any claim or lien arising out of work, labor, materials or supplies provided or supplied to Company, its contractors or subcontractors), the provision of Cable Services or the Company's failure to comply with any federal, state or local statute, ordinance or regulation.

6.3 Assumption of Risk. Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any City-owned or controlled property, including Public Ways, and Company hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Cable Television System or Company's failure to comply with any federal, state or local statute, ordinance or regulation.

6.4 Defense of Indemnitees. In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder Company shall upon notice from any of the Indemnitees, at Company's sole cost and expense, resist and defend the same with legal counsel selected by City; provided further, however, that Company shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of City.

6.5 Notice, Cooperation and Expenses. City shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent City from cooperating with Company and participating in the defense of any litigation by City's own counsel.

6.6 Insurance. At all times during the term of this Franchise including any time for removal of facilities or restoration, Company shall obtain, maintain, and pay all premiums for all insurance policies described in this Section. Within thirty (30) days from the effective date of this Franchise, Company shall file with City certificates of insurance evidencing coverage. Failure to obtain and maintain any insurance policy required by this Section shall be deemed a material breach of this Franchise and may be grounds for termination pursuant to this Franchise.

6.6.1 Property Damage Liability -- One Hundred Thousand Dollars (\$100,000) per occurrence with a Ten Million Dollar (\$10,000,000) umbrella policy. The property damage insurance required by this Section shall indemnify, defend and hold harmless Company and City and the respective officers boards commissions, agents, and employees of each from and against all claims made by any person for property damage caused by the operations of Company under the Franchise herein granted or alleged to have been so caused or alleged to have occurred.

6.6.2 Comprehensive Public Liability -- One Million Dollars (\$1,000,000) per occurrence with a Ten Million Dollar (\$10,000,000) umbrella policy. The comprehensive public liability insurance required by this Section shall indemnify, defend, and hold harmless Company and City and the respective officers, boards, commissions, agents, and employees of each from any and all claims made by any person on account of injury to, or death of a person or persons caused by the operations of Company under this Franchise, alleged to have been so caused or alleged to have occurred.

6.6.3 Comprehensive Automobile Liability -- One Million Dollars (\$1,000,000) per occurrence with a Ten Million Dollar (\$10,000,000) umbrella policy. The comprehensive automobile liability insurance required by this Section shall indemnify, defend and hold harmless Company and City and the respective officers, boards, commissions, employees and agents of each from any and all claims made by any person on account of collision, personal injury or property damage caused by use

of any owned, hired, or non-owned motor vehicles used in conjunction with the rights herein granted or alleged to have been so caused or alleged to have occurred.

6.6.4 Workers' Compensation -- Workers' Compensation coverage which meets all requirements of applicable Michigan workers' compensation laws.

6.7 The insurance policies called for herein shall require 30 calendar days written notice to City and the Company of any cancellation or change in the amount of coverage. Company shall in the event of any cancellation notice, obtain, maintain, pay all premiums for, and file with City written evidence of payments of premiums for an appropriate replacement insurance policies for the policies so canceled within 30 calendar days following receipt by City or Company of notice of cancellation.

6.8 No recovery by City of any sum by reason of any insurance policy required by this Franchise shall be any limitation upon the liability of Company to City or to other persons.

6.9 All insurance shall be effected under valid and enforceable policies insured by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commissioner's approved list of companies qualified to do business in Michigan.

7 FEES AND PAYMENTS

7.1 Franchise Fee. Company shall pay City throughout the term of this Franchise an amount equal to 5% of Company's Gross Revenues. Such payments shall be made semiannually, by March 31 based upon Gross Revenues in the preceding July-December, and by September 30 based upon Gross Revenues in the preceding January-June.

7.1.1 Each payment shall be accompanied by a written report to City, verified by an officer of Company containing an accurate statement in summarized form of Company's Gross Revenues and the computation of the payment amount.

7.1.2 City may audit Company to verify the accuracy of franchise fees paid City. Any additional amount due City shall be paid within 30 days of City's submitting an invoice for such sum, and if such sum shall exceed 5% of the total franchise fee which the audit determines should have been paid for any calendar year, Company shall pay City's cost of auditing that calendar year as well.

7.2 Other Payments. The preceding fees and payments are in addition to all sums which may be due City for property taxes (real and personal), income taxes, license fees, permit fees or other fees, taxes or charges which City may from time to time impose.

7.3 Interest. All sums not paid when due shall bear interest at a rate of 10% per annum computed monthly and if so paid with interest shall not constitute an Event of Default under Section 11.

7.4 Prior Fees. By March 31, 1995, Company shall pay all franchise fees due under the prior franchise between Company and City.

8 RATES AND REGULATION

8.1 Rates. Company's rates and charges for the provision of Cable Service (and for related services, such as equipment rental, deposits, and downgrade fees) shall be subject to regulation by City as expressly permitted by federal law.

8.2 Regulation. City reserves the right to regulate Company the Cable Television System, and the provision of Cable Service as expressly permitted by federal law.

8.3 Notice of Certain Costs: Company shall notify City in writing at least annually of the identity of all costs which Company claims are external costs potentially entitled to pass through to subscribers under the FCC Rules or successor rules with a similar effect. Such notice shall state the approximate amount of such costs may be on subscriber's monthly bills and set forth the computation of such amount. Such notice shall be provided on a date set by City, and unless changed by City, on each annual anniversary thereof.

9 TERM

9.1 Initial Term. The term of this franchise shall be from January 1, 1995 until December 31, 2008.

9.2 Termination. This Franchise and all rights of Company thereunder shall automatically terminate on the expiration of the term of this franchise, unless an extension is granted. City will give Company sixty (60) days notice prior to taking action to enforce such termination.

9.3 Reopeners: City or Company at its option may reopen this Franchise as follows:

9.3.1 Within six months of the adoption of Federal or state legislation or FCC regulations if such regulations affect City's ability to (a) regulate rates or (b) act to protect subscribers (such as on customer service matters, customer service standards or consumer protection matters). Such reopener shall be limited to the matters described in (a) and (b).

10 TRANSFERS OWNERSHIP AND CONTROL

10.1 Management of the Cable Television System. Company shall personally manage the Cable Television System and the provision of Cable Services within City. It shall not directly or indirectly contract for, subcontract or assign in whole or in part, the management of the Cable Television System or the provision of Cable Services.

10.2 Consent Required: This Franchise and the Cable Television System shall not be sold, transferred, assigned, or otherwise encumbered, without the prior consent of the City, such consent not to be unreasonably withheld. Such consent shall not be required, for a transfer in order to secure indebtedness such as a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Company in the Franchise or cable system.

10.2.1 The preceding prohibition shall not apply to the replacement or sale of components of the Cable Television System in the course of ordinary maintenance or day-to-day operation.

10.2.2 The preceding prohibition shall not apply to a transfer to an affiliate, which shall mean an entity controlling, controlled by, or under common control with Company.

10.3 Transfer or Transferred shall mean any form of sale, conveyance, assignment, lease, sublease, merger, pledge, deed, grant, mortgage, transfer in trust, encumbrance or hypothecation in whole or in part, whether voluntary or involuntary of any right, title or interest of Company in or to this Franchise or to the Cable Television System.

10.4 Applications for Consent. If Company seeks to obtain the consent of City to any transactions or matters otherwise prohibited by this Part 10, Company shall submit an application for such consent in the form required by City and shall submit or caused to be submitted to City all such documents and information as City may request.

11 DEFAULTS

11.1 Events of Default. The occurrence at any time during the term of the Franchise, of any one or more of the following events, shall constitute an Event of Default by the Company under this Franchise.

11.1.1 The failure of Company to pay the Franchise fee on or before the due dates specified herein.

11.1.2 Company's material breach or violation of any of the terms, covenants, representations or warranties contained herein or the Company's failure to perform any obligation contained herein.

11.1.3 Company's failure to pay or cause to be paid any governmentally imposed taxes of any kind whatsoever, including but not limited to real estate taxes income taxes, and personal property taxes on or before the due date for same; provided, however, Company shall not be in default hereunder with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

11.1.4 The entry of any judgment against Company in excess of Five Hundred Thousand (\$500,000) Dollars, which remains unpaid and is not stayed pending rehearing or appeal, for forty-five (45) or more days following entry thereof which may significantly impair Company's provision of cable service in City.

11.1.5 The dissolution or termination, as a matter of law, of Company or any general partner of Company.

11.1.6 If Company files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code (11 USC §301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any trustee, receiver, master, custodian or liquidator of Company, or any of Company's property and/or Franchise and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay Company's debts generally as they become due.

11.2 Uncured Events of Default. City shall give Company written notice of any Event of Default and Company shall have the following reasonable time period to cure same: For an Event of Default which can be cured by the immediate payment of money to City or a third party, the Company shall cure such default within thirty (30) days of the date such sum of money was due and payable; for an Event of Default by Company which cannot be cured by the immediate payment of money to City or a third party, Company shall have ninety (90) days from written notice from City to Company of an occurrence of such Event of Default.

11.2.1 If any Event of Default is not cured within the time period allowed for curing the Event of Default, as provided for herein, such Event of Default shall, without notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in Section 12.1 and Section 12.2.

12 REMEDIES

12.1 Remedies. Upon the occurrence of any Uncured Event of Default as described in Part 11, City shall be entitled to exercise any and all of the following cumulative remedies:

12.1.1 City shall have the right to forfeit and terminate the Franchise and upon the forfeiture and termination thereof this Franchise shall be automatically deemed null and void and have no force or effect, Company shall remove the Cable Television System from City as and when requested by City and City shall retain any portion of the Franchise Fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. City's right to forfeit and terminate the grant of the Franchise pursuant to this section is not a limitation on City's right of revocation.

12.1.2 The commencement of an action against Company at law for monetary damages.

12.1.3 The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions which, as a matter of equity, are specifically enforceable.

12.2 Remedies Not Exclusive. The rights and remedies of City set forth in this Franchise shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. City and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by City of any one or more of such remedies, shall not preclude the exercise by City, at the same or different times, of any other such remedies for the same Uncured Event Of Default.

12.3 Liquidated Damages. Notwithstanding any other provision of this Franchise (including, without limitation, Sections 11.1, 11.2, 12.1, and 12.2), the City may assess liquidated damages for any violation of the Franchise (whether or not it is an Uncured Event of Default as defined in Section 11.2.1) as set forth herein. Recognizing the difficulty in calculating the actual monetary damages which would be sustained by the City in the event of a violation by the Company of certain provisions of this Franchise, the City and the Company agree that the following shall constitute the liquidated damage amounts to be assessed against the Company:

12.3.1 Failure of the Company to pay the franchise fee or to pay any other monetary amounts on or before the due date specified in this Franchise within ten (10) days written notice of such failure, \$200 per day.

12.3.2 Any violations of Sections 2.3, 4.1, 4.2, 4.5-4.10, 4.15, 4.17-4.19, or 4.22 which occur four times in any six month period or six (6) times in any twelve

month period, \$50 per occurrence beginning with the fourth or sixth violation, and \$100 per occurrence after ten (10) occurrences within any twelve month period.

12.3.3 Any violation of Sections 2.1, 2.2, 2.4, 2.5, 2.6, 3.2, 3.4, 3.5, 3.6, 3.9, 3.10, 4.3, 4.4, 4.11-4.14, 4.16, 4.21, 5.1, 6.6, 10.1, and 13.4 of this Franchise which is not corrected within thirty (30) days of written notice of violation, \$100 per day.

12.3.4 The foregoing liquidated damages shall be in addition to, and not a limitation upon, any other remedies or provisions of this Franchise, including revocation.

13 PROVISION OF INFORMATION

13.1 Financial Reports. Company will provide City on or before April 15 of each calendar year audited financial statements of its parent, publicly held company, for the prior calendar year certified by a national accounting firm.

13.2 Lawsuits. Company will provide City with copies of all pleadings in all lawsuits pertaining to the granting of this franchise and the operation of the cable system to which it is a party with 5 days of Company's receipt of same.

13.3 Filings. Company will provide copies of all documents which Company sends to the FCC or Michigan Public Service Commission and all records required by Company to be maintained under § 76 of the FCC regulations (47 CFR §76) or successor sections upon request of the city.

13.4 Books and Records. The City may review such of the Company's books and records during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, records required to be kept by the Company pursuant to the rules and regulations of the FCC, and financial information underlying the summary report pertaining to the Franchise Fee. Notwithstanding anything to the contrary set forth herein, the Company is not required to disclose personally identifiable subscriber information without the subscriber's consent in recognition of Section 631 of the Cable Act, 47 U.S.C. Section 551, regarding the protection of subscriber privacy; nor shall the Company be required to disclose its income tax returns or information underlying the preparation of any such returns. To the extent permitted by law, the City agrees to treat on a confidential basis any information disclosed by the Company to it under this Section. In so according confidential treatment, to the extent permitted by law, disclosure of Company's records by the City shall be limited to only those of its employees, representatives and agents that have a need to know, and that are in a confidential relationship with the City.

14 GENERAL

14.1 Entire Agreement. This Franchise including the Exhibits attached hereto, contain the entire agreement between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded.

14.2 Notices. Except as otherwise specified herein, all notices consents approvals, requests and other communications (herein collectively "Notices") required or permitted under this Franchise shall be given in writing and mailed by registered or certified first-class mail, return receipt requested addressed as follows:

If to City:

City Manager

City of Niles

309 E Chicago Blvd

Niles, MI 49286-0396

If to Company:

TCI Cablevision of Michigan

4771 Niles Road

St. Joseph, MI 49085

Westmarc Development J.V.

111 Pfingston Road

Deerfield, IL 60015

All Notices shall be deemed given on the day of mailing. Either party to this Franchise may change its address for the receipt of Notices at any time by giving notice thereof to the other as provided in this Section. Any notice given by a party hereunder must be signed by an authorized representative of such party.

14.3 Conferences. The parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this Franchise, the provision of Cable Services or the Cable Television System during the term of this Franchise.

14.4 Governing Law. This Franchise shall be construed pursuant to the laws of the State of Michigan and the United States of America.

14.5 Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Franchise, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Franchise, but each and every covenant, agreement, term or condition of

this Franchise shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

14.5.1 City may waive any obligation of Company under this Franchise, in whole or in part, at any time. This includes but it not limited to instances of a claim or showing by Company that the costs associated with the provision being waived would increase the rates Company is legally allowed to charge subscribers, such as a claim that such costs are an "external cost" which allow Company to increase its rates under the FCC rules.

14.6 Independent Contractor Relationship. The relationship of Company to City is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this Franchise, unless expressly stated in this Franchise.

14.7 Severability. If any section, paragraph, or provision of this Franchise shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Franchise.

14.8 Effective Date, Acceptance. This Ordinance and the Franchise granted herein shall be effective as of January 1, 1995. The prior franchise shall terminate as of midnight on December 31, 1994.

14.9 FCC Rules. A copy of FCC Rule 76.309 as in effect on the date of this ordinance is attached hereto as Exhibit A.

14.10 Acceptance. This Ordinance will without further action be revoked, null and void and of no effect after thirty (30) days from its adoption unless within such period Company accepts same in writing by filing with the City Clerk the acceptance attached hereto as Exhibit B. By such acceptance, Company agrees to all the provisions, terms, and conditions contained in this Ordinance.

* * * *

The foregoing ordinance was declared duly adopted and passed by said Council.

The adoption of said ordinance being put to a vote on _____, the same was carried by the following vote:

YEA: Council Member _____

NAY: _____

First Reading: _____

Second Reading: _____

Third Reading: _____

Publication: _____

EXHIBIT A
FCC RULE 76.309

See attached.

EXHIBIT B

ACCEPTANCE

Westmarc Development Joint Venture, L.P., a Colorado Limited Partnership, d/b/a TCI Cablevision of Greater Michigan, Inc. hereby accepts the rights granted by the City of Niles, Michigan in its Ordinance No. _____ and subject to all the provisions and conditions contained in such ordinance.

Westmarc Development Joint Venture, L.P.

By: _____

Its: _____

Date: _____

EXHIBIT C

GUARANTEE IN LIEU OF BOND

THIS AGREEMENT is made this ____ day of _____, 199_ between Guarantor, City and Company (for the purpose of this Agreement, the terms "Guarantor", "City", and "Company" have the meanings ascribed to them below.

WITNESSETH

WHEREAS, the Company has accepted a "Franchise" (as defined below) with the City, relating to Company's cable television system ("System"), which Franchise is hereby specifically referred to and incorporated herein, and made a part hereof; and

WHEREAS, Tele-Communications, Inc., a Delaware corporation ("Guarantor") is the indirect parent company of the Company and has a substantial interest in the System and the conduct of the Company in complying with the Franchise, and any and all amendments thereof and any agreements related thereto; and

WHEREAS, section 4.23 of the Franchise requires the Company, as principal, to furnish bond or bonds issued to cover the faithful performance of certain of the Company's obligations under the Franchise.

NOW THEREFORE, Guarantor hereby unconditionally guarantees the due and punctual performance of any and all obligations of Company contained in section 4.23 of the Franchise.

City shall give written notice to Guarantor of: (a) any defaults of Company in the performance of any such covenants and agreements; and (b) any presentment, demand, protest or notice of any kind which relates to Company's performance of the terms and conditions set forth in the Franchise.

This Agreement, unless terminated, substituted or canceled as provided herein, shall remain in full force and effect for the duration of the term of the Franchise, or as expressly provided otherwise in the Franchise.

Upon substitution of another Guarantor reasonably satisfactory to the City, this Agreement may be terminated, substituted or canceled upon thirty (30) days' prior written notice from Guarantor to the City and the Company.

Such termination shall not affect liability incurred or accrued under this Guarantee prior to the effective date of such termination or cancellation.

Any notice given pursuant to this Agreement are to be given by certified mail and shall be addressed to the Guarantor and Company at P.O. Box 5630, Denver, Colorado 80217, and to the City at 508 E. Main Street, P.O. Box 487, Niles, Michigan 49120-0487.

No claim, suit or action under this Agreement by reason of any default of the Company shall be brought against Guarantor unless asserted or commenced within six (6) months after the effective date of such termination or cancellation of this Agreement.

IN WITNESS WHEREOF, the Guarantor, Company and City have set their hands and seals on the ____ day of _____, 199__.

DEFINITIONS

(The following terms have meanings ascribed to them below)

City: City of Niles, Michigan

Company: Westmarc Development Joint Venture, L.P.

Franchise: City of Niles Ordinance No.

GUARANTOR:
TELE-COMMUNICATIONS, INC.

Bernard W. Schotiers
Senior Vice President

COMPANY:

BY: _____

TITLE: _____

CITY:

BY: _____

TITLE: _____

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait

time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(1) Notifications to subscribers—

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

(ii) Billing—

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) *Normal business hours*—The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) *Normal operating conditions*—The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are *not* within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) *Service interruption*—The term "service interruption" means the loss of picture or sound on one or more cable channels.

[58 FR 21109, Apr. 19, 1993]

Subpart I—Forms and Reports

§ 76.400 Operator, mail address, and operational status changes.

Within 30 days following a change of Cable Television System Operator, and/or change of the operator's mail address, and/or change in the operational status of a cable television system, the Operator shall inform the Commission in writing of the following, as appropriate;